

**UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION**

**IN RE: NATIONAL PRESCRIPTION OPIATE  
LITIGATION**

MDL No. 2804

(SEE ATTACHED SCHEDULE)

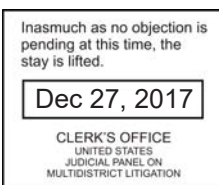
**CONDITIONAL REMAND ORDER**

The transferee court in this litigation has advised the Panel that coordinated or consolidated pretrial proceedings in the action(s) on this conditional remand order have been completed and that remand to the transferor court(s), as provided in 28 U.S.C. § 1407(a), is appropriate.

IT IS THEREFORE ORDERED that the action(s) on this conditional remand order be remanded to its/their respective transferor court(s).

IT IS ALSO ORDERED that, pursuant to Rule 10.2 of the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation, the transmittal of this order to the transferee clerk for filing shall be stayed 7 days from the date of this order. If any party files a notice of opposition with the Clerk of the Panel within this 7-day period, the stay will be continued until further order of the Panel. This order does not become effective until it is filed in the office of the Clerk for the United States District Court for the Northern District of Ohio.

IT IS FURTHER ORDERED that, pursuant to Rule 10.4(a), the parties shall furnish the Clerk for the Northern District of Ohio with a stipulation or designation of the contents of the record to be remanded.



FOR THE PANEL:



Jeffery N. Lüthi  
Clerk of the Panel

**IN RE: NATIONAL PRESCRIPTION OPIATE  
LITIGATION**

MDL No. 2804

**SCHEDULE FOR CRO**

<b>TRANSFeree</b>			<b>TRANSFEROR</b>			<b><u>CASE CAPTION</u></b>
<b><u>DIST</u></b>	<b><u>DIV.</u></b>	<b><u>C.A.NO.</u></b>	<b><u>DIST</u></b>	<b><u>DIV.</u></b>	<b><u>C.A.NO.</u></b>	
OHN	1	17-45056	WVS	2	17-03555	State of West Virginia et al v. McKesson Corporation

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION</b>	)	<b>CASE NO. 1:17 MD 2804</b>
	)	
	)	<b>JUDGE DAN AARON POLSTER</b>
	)	
	)	<b><u>MINUTES OF TELECONFERENCE</u></b>
	)	<b>and</b>
<b>This document applies to All Cases.</b>	)	<b><u>SCHEDULING ORDER</u></b>
	)	

The Court held an initial teleconference with Counsel in this Multidistrict Litigation (“MDL”) on December 13, 2017. As a preliminary matter, the Court thanked Attorney James Peterson and his staff (especially Pamela Perkins and Attorney Aaron Harrah) for their help in organizing the teleconference.

The Court then reported that the main MDL docket is now up and running, and most of the 64 cases identified in the initial Transfer Order have been successfully transferred to this Court.

The Court noted that any lawyers in the MDL who have Electronic Case Filing accounts in federal district courts across the country need not file Pro Hac Vice Motions in this district court. The Court also noted that lawyers who have already filed notices of appearance in the transferor courts need not file notices of appearance when their cases are transferred here.

The following agenda items were discussed.

**1. Organization of Counsel**

It was agreed that, no later than 12:00 noon Eastern Time on Wednesday, December 20, 2017, Counsel for Plaintiffs and Defendants shall file a Motion to Approve Liaison Counsel and

Steering Committees. The Court suggested there be a single Defendants' Steering Committee with at least one representative from each of the categories of Defendants (Manufacturers, Distributors, Physicians). The Court wants three Liaison Counsel for Plaintiffs and three Liaison Counsel for Defendants. These attorneys should be prepared at a moment's notice to participate in brief, impromptu teleconferences with the Court and, if one or two of the three Counsel are unavailable, the other(s) will be able to participate on behalf of all three.

**2. Appointment of a Special Master**

All agreed with the Court's suggestion that it would be beneficial to appoint a Special Master to assist in handling this MDL. So, no later than 12:00 noon Eastern Time on Wednesday, December 20, 2017, Counsel shall caucus and file any recommendations of specific persons.

**3. Remand Motions**

There are currently pending 16 cases with remand motions where Defendants removed the case to federal court based ostensibly on diversity jurisdiction, contending that the non-diverse Distributor Defendants were fraudulently joined. Plaintiffs have filed motions to remand arguing that those Defendants were not fraudulently joined. The Court explained that it would be better to leave the motions pending for the time being for reasons stated on the record, and Counsel agreed.

There is, however, one remand motion pending in a case that Defendants removed to federal court a second time, after the district judge granted plaintiffs' motion to remand. *State of West Virginia, et al. v. McKesson Corp.*, C.A. No. 2:17-03555. The Court has directed the Clerk of Court to transfer that case back to the transferor court for a ruling on the pending motion to remand. Should the district judge deny the motion, it shall transfer the case back to this MDL.

**4. Cases Filed by Non-Government Entities and Cases Filed by Individuals**

All but about 7 or 8 cases of the 64 cases initially transferred here by the Judicial Panel on Multidistrict Litigation were brought by government entities. The Court anticipates that many more non-government entities, including hospitals and Indian tribes, and individuals will be filing cases in this MDL. The Court has discretion over how to organize the MDL and asked Counsel to consider and provide suggestions on how the Court should handle the non-government cases.

**5. Exploring Early Resolution**

The Court stated that it intends to explore early resolution with Counsel at the next in-person conference, and it will discuss resolution with Counsel representing the various parties separately.

**6. Next Conference**

The Court has scheduled a conference beginning at **9:00 a.m. on Tuesday, January 9, 2018**. This is an in-person conference for Counsel only. At that time, the Court will, among other things, schedule an in-person conference for Counsel, clients and insurance representatives.

**7. State and Federal Cases**

Attorney Joe Rice, who represents parties in California state court cases that commenced in 2014, has agreed to provide the Court with suggestions on how to coordinate discovery between the state and MDL cases. Attorney Mark Troutman, who represents the Ohio Attorney General, agreed to provide the Court with a list of related state court cases.

**8. Miscellaneous**

The Court agreed that Plaintiffs and Defendants may each email to the Court, **no later than 12:00 noon Eastern Time on Friday, January 5, 2018**, suggestions they believe will

assist the Court in organizing and managing this MDL. These suggestions should be exchanged. If Plaintiffs and/or Defendants have suggestions relative to settlement, they may email them to the Court without exchanging them.

9. The Court **granted** Counsel's verbal request to extend the deadline for achieving service to 60 days after the expiration of the time period under Fed. R. Civ. P. 4(m). Because the Court is still in the early stages of organizing the MDL, the Court has put a **moratorium** on all filings, other than the ones mentioned herein, for 60 days.

**IT IS SO ORDERED.**

/s/ Dan A. Polster    December 14, 2017  
**Dan Aaron Polster**  
**United States District Judge**



Activity in Case MDL No. 2804 IN RE: National Prescription Opiate Litigation CRO Final Minute Order (Clerks)

JPMLCMECF

to:

JPMLCMDECF

12/27/2017 08:35 AM

Hide Details

From: JPMLCMECF@jpml.uscourts.gov

To: JPMLCMDECF@jpml.uscourts.gov

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

## United States

### United States Judicial Panel on Multidistrict Litigation

#### Notice of Electronic Filing

The following transaction was entered on 12/27/2017 at 8:35 AM EST and filed on 12/27/2017

**Case Name:** IN RE: National Prescription Opiate Litigation

**Case Number:** [MDL No. 2804](#)

**Filer:**

**Document Number:** No document attached

**Docket Text:**

**\*\*\*TEXT ONLY ENTRY\*\*\***

**MINUTE ORDER - TO INVOLVED CLERKS - Conditional Remand Order Finalized on 12/27/17. Please see pleading ([435] in MDL No. 2804, 42 in WVS/2:17-cv-03555).**

**A copy of the transferee court's Suggestion of Remand from the transferee court is attached to the Conditional Remand Order.**

**As stipulated in Rule 10.2(b) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, transmittal of the order has been stayed 7 days to give any party an opportunity to oppose the remand. The 7-day period has now elapsed, no opposition was received, and the order is directed to you for filing.**

**The order was entered pursuant to 28 U.S.C. 1407(a) which provides that each action so transferred by the Panel shall be remanded by the Panel at or before the conclusion of such pretrial proceedings to the district from which it was transferred. Parties are to furnish N.D. Ohio with a stipulation or designation of the contents of the record to be remanded and all necessary copies of any pleading or other matter filed to comply with the remand order.**

**Signed by Clerk of the Panel Jeffery N. Luthi on 12/27/2017.**

**Associated Cases: MDL No. 2804, WVS/2:17-cv-03555 (DP)**

**Case Name:** State of West Virginia et al v. McKesson Corporation  
**Case Number:** [WVS/2:17-cv-03555](#)  
**Filer:**  
**Document Number:** No document attached

**Docket Text:**

**\*\*\*TEXT ONLY ENTRY\*\*\***

**MINUTE ORDER - TO INVOLVED CLERKS - Conditional Remand Order Finalized on 12/27/17. Please see pleading ( [435] in MDL No. 2804, 42 in WVS/2:17-cv-03555).**

**A copy of the transferee court's Suggestion of Remand from the transferee court is attached to the Conditional Remand Order.**

**As stipulated in Rule 10.2(b) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, transmittal of the order has been stayed 7 days to give any party an opportunity to oppose the remand. The 7-day period has now elapsed, no opposition was received, and the order is directed to you for filing.**

**The order was entered pursuant to 28 U.S.C. 1407(a) which provides that each action so transferred by the Panel shall be remanded by the Panel at or before the conclusion of such pretrial proceedings to the district from which it was transferred. Parties are to furnish N.D. Ohio with a stipulation or designation of the contents of the record to be remanded and all necessary copies of any pleading or other matter filed to comply with the remand order.**

**Signed by Clerk of the Panel Jeffery N. Luthi on 12/27/2017.**

**Associated Cases: MDL No. 2804, WVS/2:17-cv-03555 (DP)**

**No public notice (electronic or otherwise) sent because the entry is private**





Activity in Case MDL No. 2804 IN RE: National Prescription Opiate Litigation Finalized  
Conditional Remand Order

JPMLCMECF

to:

JPMLCMDECF

12/27/2017 08:35 AM

Hide Details

From: JPMLCMECF@jpml.uscourts.gov

To: JPMLCMDECF@jpml.uscourts.gov

**This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.**

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

## United States

### United States Judicial Panel on Multidistrict Litigation

#### Notice of Electronic Filing

The following transaction was entered on 12/27/2017 at 8:34 AM EST and filed on 12/27/2017

**Case Name:** IN RE: National Prescription Opiate Litigation

**Case Number:** [MDL No. 2804](#)

**Filer:**

**Document Number:** [435](#)

#### Docket Text:

**CONDITIONAL REMAND ORDER FINALIZED** (re: pldg. ([379] in MDL No. 2804, 39 in WVS/2:17-cv-03555) ) - 1 action(s) - Inasmuch as no objection is pending at this time, the stay is lifted.

**Signed by Clerk of the Panel Jeffery N. Luthi on 12/27/2017.**

**(Attachments: # (1) Suggestion of Remand)**

**Associated Cases: MDL No. 2804, WVS/2:17-cv-03555 (DP)**

**Case Name:** State of West Virginia et al v. McKesson Corporation

**Case Number:** [WVS/2:17-cv-03555](#)

**Filer:**

**Document Number:** [42](#)

#### Docket Text:

**CONDITIONAL REMAND ORDER FINALIZED** (re: pldg. ( [379] in MDL No. 2804, 39 in

**WVS/2:17-cv-03555) ) - 1 action(s) - Inasmuch as no objection is pending at this time, the stay is lifted.**

**Signed by Clerk of the Panel Jeffery N. Luthi on 12/27/2017.**

**(Attachments: # [1] Suggestion of Remand)**

**Associated Cases: MDL No. 2804, WVS/2:17-cv-03555 (DP)**

**MDL No. 2804 Notice has been electronically mailed to:**

**MDL No. 2804 Notice will not be electronically mailed to:**

**WVS/2:17-cv-03555 Notice has been electronically mailed to:**

Russell David Jessee Russell.Jessee@steptoe-johnson.com, Jennifer.Savzyan@steptoe-johnson.com, ehenn@cov.com, junli@cov.com, mcrowley@cov.com, mroders@cov.com, nagama@cov.com, sandy.cooper@steptoe-johnson.com

L. Lee Javins, II ljavins@bbjlc.com, bwallace@bbjlc.com

Devon J. Stewart devon.stewart@steptoe-johnson.com

Geoffrey Edward Hobart ghobart@cov.com

Matthew Michael Benov mbenov@cov.com

Vaughn T. Sizemore Vaughn.T.Sizemore@wvago.gov

Larry Lee Javins ljavins@bjc4u.com, jfaegre@bjc4u.com

Taylor Matthew Norman tnorman@bjc4u.com

**WVS/2:17-cv-03555 Notice will not be electronically mailed to:**

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP JPMLStamp\_ID=1090522767 [Date=12/27/2017] [FileNumber=791947-0]  
[16a6e93e2115551a0d38c53210641f9cb232c467cab57d25313d5bfc006e57e13ba  
cc6a1bf40fba10157146c5da4eef17aff4c7b0dea2cc66d92fcf03fa5dae]]

**Document description:** Suggestion of Remand

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP JPMLStamp\_ID=1090522767 [Date=12/27/2017] [FileNumber=791947-1]  
[1d504e066f548a987a7b42491d9abf6474fd93a5cfdc128c71f5d3b996ab1e27b698  
2589ba1265fe04262250784669cddc2e9aec5179dd093647ba10ccf12395]]